

UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON 25, D. C.

*File 113
Personnel
Pay Act*

July 1, 1946

*Federal Emp.
Pay Act.*

DEPARTMENTAL CIRCULAR NO. 529, Revision No. 1

TO HEADS OF DEPARTMENTS AND INDEPENDENT ESTABLISHMENTS:

SUBJECT: Regulations under the Federal Employees Pay Act of 1945, as amended by the Federal Employees Pay Act of 1946.

1. The amended regulations of the Civil Service Commission, governing the administration of the provisions of the Federal Employees Pay Act of 1945 as amended by the Federal Employees Pay Act of 1946, with respect to overtime pay, periodic within-grade salary advancements, night pay differential, and pay for holiday duty, were approved by the President on June 29, 1946.
2. These regulations are effective on July 1, 1946, on which date they cancel and supersede those issued with Departmental Circular No. 529 of June 30, 1945. These regulations will appear in the Federal Register of July 3, 1946 and in an early issue of the Federal Personnel Manual.
3. Attached is a brief summarization entitled "Principal Provisions of the Federal Employees Pay Act of 1946"; an "Explanation of Changes in the Commission's Regulations under the Federal Employees Pay Act of 1945, as amended by the Federal Employees Pay Act of 1946"; and a table showing the new basic pay rates of the Classification Act of 1923, as amended, which are effective July 1, 1946.
4. Inquiries concerning the provisions of this circular may be addressed, in the Washington, D. C. area, to the Commission's Personnel Classification Division, Ext. 3059; in the field, to the appropriate regional or branch regional office of the Commission. Any question concerning the amount of compensation properly payable in a particular situation under these laws and the attached regulations should, if the answer is not available in the published decisions of the Comptroller General, be directed to the General Accounting Office rather than the Civil Service Commission.

By direction of the Commission:

Very respectfully,

L. A. Moyer

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Executive Director
and Chief Examiner

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PRINCIPAL PROVISIONS OF THE FEDERAL EMPLOYEES

PAY ACT OF 1946, EFFECTIVE JULY 1, 1946.

Below are briefly summarized the principal provisions of the Federal Employees Pay Act of 1946 (Public Law 390, 79th Congress, approved May 24, 1946) which are of rather general applicability in the executive branch of the Government. Section 14, "Personnel Ceilings", the central administration of which is vested in the Director of the Bureau of the Budget, is not covered.

INCREASE IN CLASSIFICATION ACT PAY RATES.

Section 2 raises the basic pay rates of section 13 of the Classification Act of 1923, as amended, to those shown in the attached table. It also provides that these pay increases shall not be construed to be "equivalent increases" in compensation within the meaning of the periodic within-grade salary advancement law -- specifically section 7 (b) (1) of the Classification Act of 1923, as amended. The per annum rates are increased 14% or \$250 per annum, whichever is the greater, but in no case more than 25%, subject to the \$10,000 limitation of section 603 (b) of the Federal Employees Pay Act of 1945 and section 7 of the 1946 Pay Act. Since the minimum increase provided is \$216 per annum, these increases will be more than enough to remove all Classification Act employees from the application of section 603 (a) of the 1945 Pay Act, which guaranteed certain employees in the lower grades rates of pay exceeding the Classification Act rates as fixed in that act by \$6 to \$60 per annum.

INCREASE IN STATUTORY RATES.

Section 4 states that rates of pay specifically provided by statute for positions in the executive branch, which are not covered by the exemptions of section 102 of the Federal Employees Pay Act of 1945, and are not increased elsewhere in the 1946 Act, are increased by the same formula used in section 2.

LIMITATION ON AGGREGATE RATE PAYABLE.

Section 7 (a) brings any amendments to the Federal Employees Pay Act of 1945 (including those in the 1946 Act), within the scope of section 603 (b) of the 1945 Act, which, subject to certain exceptions, provides that no one shall, as a result of the latter act, be paid basic compensation plus any additional overtime, night or holiday compensation provided by that act, at a combined rate in excess of \$10,000 per annum.

Section 7 (b) provides that no officer or employee shall be paid, as a result of the 1946 Act, basic compensation or basic compensation plus any additional compensation provided by the 1945 Act, as amended, at a rate in excess of \$10,000 per annum.

COMPENSATORY TIME OFF

Section 9 amends section 202 (a) of the 1945 Act by making it possible for heads of agencies to provide by regulation for the granting of compensatory time off, in lieu of overtime pay, for irregular or occasional duty in excess of forty hours in one administrative workweek. The former figure was forty-eight hours.

NIGHT PAY DIFFERENTIAL

Section 10 amends section 301 of the 1945 Act by authorizing payment of the 10% night pay differential during regularly scheduled overtime duty at night.

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PAY FOR HOLIDAY WORK

Section 11 raises the rate of pay for holiday duty from $1\frac{1}{2}$ times the regular basic rate to twice the regular basic rate, but limits this to holidays falling within the basic 40-hour workweek, and limits the double rate of pay to 8 hours on any one holiday. Simultaneous payment of the 10% night pay differential for night duty is authorized, in addition to the double holiday rate.

RATES FOR GRADES CPC-9 AND CPC-10

Section 12 raises the rates of pay for Classification Act grades CPC-9 and CPC-10 by \$220, such increased rates to be the basic rates used for these grades in computing the increase provided by section 2. The \$220 increases are not excluded from the "equivalent increase" condition stated in the periodic within-grade salary advancement law (section 7 (b) (1) of the Classification Act of 1923, as amended). Hence employees who receive the \$220 increases on July 1, 1946, will start new "waiting periods" on that date. These \$220 increases are intended to correct the condition created by the "Custodial Pay Act" of August 1, 1942, which raised the rates for all CPC grades except grades CPC-9 and CPC-10.

EXPLANATION OF CHANGES IN THE COMMISSION'S
REGULATIONS UNDER THE FEDERAL EMPLOYEES PAY ACT OF 1945,
AS AMENDED BY THE FEDERAL EMPLOYEES PAY ACT OF 1946.

The material which follows explains briefly the principal changes in these regulations, as compared with those issued in Departmental Circular No. 529 of June 30, 1945. For the most part, only those changes which are of rather general applicability in the executive branch of the Government are discussed.

CHAPTER I. OVERTIME PAY REGULATIONS

PART II. DEFINITIONS.

PART III. REGULATIONS TO BE PRESCRIBED BY
HEADS OF DEPARTMENTS AND AGENCIES.

Sections 202 and 301 (a).

It is necessary to include 14 consecutive calendar days in a pay period, and each pay period, according to section 604 (b) of the 1945 Pay Act, "shall cover two administrative workweeks". Hence "administrative workweek" has been redefined as meaning simply a period of seven consecutive calendar days.

"Regularly scheduled administrative workweek" is defined as meaning the period within the seven-day administrative workweek during which employees are required by agency regulation to be on duty regularly. In other words, it is the regular weekly tour of duty.

Suppose, for example, that an agency adopts as its administrative workweek the seven consecutive days beginning with Sunday and ending with Saturday. The regulations of the agency head might prescribe five 8-hour days, Monday through Friday, as the basic 40-hour workweek; and establish these same five days, plus 4 hours of regular overtime on Saturday, as the regularly scheduled administrative workweek of 44 hours.

Section 301 (b).

This new subsection has been added to take care of situations where employees' work does not arise in such a way that regular hours can be scheduled in advance. In such circumstances, the first 40 hours of duty in the seven-day administrative workweek may be treated as the basic workweek; and all officially ordered duty in excess of this 40 hours is to be treated as overtime. The 40-hour basic workweek may not cover more than six days of the administrative workweek.

Section 301 (c).

In former section 301 (b) (2), a parenthetical clause permitted the averaging of the weekly hours of regularly scheduled duty, in cases where, because of rotating shifts, the number of weekly hours varied over a cycle of several weeks. This clause has been dropped in accordance with a decision of the Comptroller General that each workweek must be treated as a separate and distinct unit for pay purposes (25 Comp. Gen. 205, August 20, 1945).

Section 302. Compensatory time off for irregular or occasional overtime duty.

Section 9 of the 1946 Pay Act permits the granting of compensatory time off for irregular or occasional overtime duty in excess of forty hours. Hence forty has been substituted for forty-eight in the regulations.

PART IV. OVERTIME WORK AND OVERTIME COMPENSATIONSection 402. Computation of overtime employment.(a) Leave with pay.

This subsection has been expanded to indicate that authorized absence on non-work days established by Executive Order or administrative order during the 40-hour basic workweek will not reduce the overtime pay to which the employee is otherwise entitled for work performed outside the basic workweek.

(b) Leave without pay.

This new subsection provides that if an employee takes any leave-without-pay during the basic 40-hour workweek, this must be offset by an equal period of work outside the basic workweek before any remaining overtime can be paid for at overtime rates. (25 Comp. Gen. 102, 108-109, July 26, 1945; id. 121, 124-126, July 28, 1945).

(c) Absence during overtime periods.

This new subsection states the general rule that overtime pay is ordinarily payable only for actual overtime duty. Some few exceptions to this general rule are required by express provisions of law. For example, the Act of June 29, 1940 (54 Stat. 689) provides that when an employee is called upon for jury service in a state court or court of the United States, his pay "shall not be diminished" by reason of such absence, except for the deduction of any amounts the employee may receive for his jury service. Another exception applies in the case of an employee who is granted compensatory time off during a regularly scheduled overtime period. The rule precluding overtime pay for non-duty periods in an official travel status outside the regularly scheduled administrative workweek is based on decisions of the Comptroller General (25 Comp. Gen. 121, 129-130, July 28, 1945).

(d) Night or holiday duty.

There has been added to this subsection the substance of the provision in section 302 of the 1945 Pay Act to the effect that an employee's overtime pay shall not be reduced because he receives extra pay for holiday duty in the same administrative workweek.

Section 404. Computation of overtime compensation.

In subsection (b) the overtime rates of pay corresponding to the new basic rates of pay established by section 2 of the 1946 Pay Act have been substituted.

CHAPTER II. PERIODIC WITHIN-GRADE SALARY
ADVANCEMENT REGULATIONS.

PART II. DEFINITIONS.

Section 201. Permanent positions.

To this definition has been appended the statement that the serving of a probational or trial period does not of itself require that the position concerned be regarded as other than permanent (section 9 of Departmental Circular No. 540). Also added is the statement that positions filled by temporary appointments under section 2 of Temporary Civil Service Regulation VIII are temporary for the purpose of the within-grade advancement regulations; i.e., such temporary appointees are not subject to the periodic within-grade advancement law (section 4 of Executive Order No. 9691, February 4, 1946).

Section 203. Equivalent increase in compensation.

(a). Here the word "smallest" has been inserted, so as to make it clear that an increase in basic pay equal to or greater than the smallest step in the lowest grade occupied in the "waiting period" is an "equivalent increase".

(b) (1). Here the pay increases due to the raising of Classification Act pay rates by section 2 of the 1946 Pay Act are identified as not being "equivalent increases", in accordance with subsection 2(c) of that act. Hence they do not necessitate the starting of a new "waiting period".

(b) (4). Hitherto, when an employee was demoted or reduced in salary, but was restored to his former grade and salary because of a decision of an efficiency rating board of review or as the result of a reduction-in-force appeal, an appeal under section 14 of the Veterans' Preference Act of 1944, or the re-allocation of his same position to its former grade on appeal, the salary increase back to his former rate was usually required to be treated to an "equivalent increase". Hence the employee forfeited his service credit toward a within-grade advancement and had to begin a new waiting period of 12 or 18 months. This new provision is intended to correct this situation by providing that an increase is not to be regarded as an "equivalent increase".

Section 205. War transfer.

Section 206. Satisfactory record on war transfer.

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Language has been added to each of these definitions, which, in effect, extends war-transfer status, for the purpose of these regulations, to employees who have entered the United States military governments of occupied territories with reemployment rights under Executive Order No. 9711 of April 11, 1946, and employees of public international organizations having reemployment rights under Executive Order No. 9721 of May 10, 1946.

"Satisfactory record on war transfer" has had the former requirement of involuntary furlough or separation stricken from the definition (Departmental Circular No. 493, Suppl. 14, July 24, 1945).

PART III. COMPUTATION OF PERIODS OF SERVICE.

Section 301. Service to be credited.

(c). This has been completely revised. The revised text permits the crediting toward within-grade advancements of no periods of actual separation or break in service. Formerly a maximum of 30 days in a non-pay status (including break in service) was creditable toward an advancement. The change represents a return toward the strict intent of the law, which specifies that advancements shall be given, under certain conditions, after 12 or 18 months of "service".

The former provision of the regulations allowing service credit for a maximum of 30 days in a non-pay status did not specify whether this meant 30 calendar days, 30 regularly scheduled work days, or 30 basic workweek days. Prior to the 1945 Pay Act, there was no need so to specify, since per annum employees were considered as being in a pay status 7 days a week. 301 (c) has been revised to permit the crediting toward a within-grade advancement of not more than 22 eight-hour basic-workweek days, or 176 basic-workweek hours, of leave without pay or furlough. This is a trifle more than the equivalent of one calendar month or 30 calendar days.

(d) This has been liberalized to permit the recovery of prior creditable service or "waiting time" following involuntary separation that is not longer than twelve months.

(e) This new subsection permits the recovery of prior creditable service when an employee resigns but reenters Government employment within 30 days.

(f) The language of condition (3) has been changed to make it clear that the crediting toward within-grade advancements of military, merchant marine and war-transfer service is required only when a person is reemployed through the exercise of his right to reemployment in the Federal service. This principle is based on the interpretation of section 402 (b) (4) of the 1945 Pay Act (section 7 (b) (4) of the Classification Act of 1923, as amended), and congressional reports on the purpose of that section of the law.

In the last sentence of (f), language has been inserted fixing a 12 or 18-month maximum (one waiting period) on the credit toward within-grade advancements for civilian employment prior to military, merchant marine or war-transfer service. This means that, for civilian employment prior to entering such service, the employee is entitled to the same credit as if he had stayed on continuously in his civilian position.

PART IV. CONDITIONS OF ELIGIBILITY FOR
PERIODIC WITHIN-GRADE ADVANCEMENT.

Section 401. Eligibility requirements and effective date.

A sentence has been added to supplement the provisions of 301 (c), which permit service credit for not more than 22 eight-hour basic-workweek days of leave without pay or furlough within one "waiting period". The new sentence specifies that where an employee's total leave without pay and furlough exceeds this amount, he must make up the difference by additional service in a pay status during his basic workweeks.

Section 402. Exceptions to conditions (2) and (3) stated in section 401.

In this section condition (c) has been revised so as to make it clear that the mandatory exceptions provided for in the section apply only when a person is reemployed through the exercise of his right to reemployment. This parallels the principal change made in 301 (f).

CHAPTER III. NIGHT PAY DIFFERENTIAL REGULATIONS.

PART II. DEFINITIONS.

Section 202. Regularly scheduled tour of duty.

This definition has been made consistent with "regularly scheduled administrative workweek" as defined in the Overtime Pay Regulations. A definition applicable to part-time employees has been added.

PART III. NIGHT WORK AND PAYMENT OF NIGHT DIFFERENTIAL.

Section 302. Computation of night pay differential.

(a) Absence on leave or holidays, or in travel status.

Here simple general rules have been added covering the payment or non-payment of the night pay differential for absences on holidays and non-work days, during compensatory time off, and while in official travel status.

(b) Relation to overtime and holiday pay.

Here it is stated that the night pay differential shall be in addition to any extra pay for overtime or holiday duty, as provided in sections 10 and 11 of the 1946 Pay Act.

(c) Temporary assignment to different tour of duty.

This new subsection states that the night differential is payable when an employee is temporarily assigned to any regularly scheduled night shift, not necessarily his own regular shift (25 Comp. Gen. 102, 110, July 26, 1945).

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CHAPTER IV. REGULATIONS GOVERNING PAY FOR HOLIDAY DUTY.

These regulations have not been issued before.

PART III. IDENTIFICATION OF HOLIDAYS.

Section 301.

This section lists the holidays and in (b) gives the substance of Executive Order No. 9636 governing the observance of holidays that fall on Sundays. (c) provides for the observance of any other holidays designated by Executive order.

PART IV. EXTRA PAY FOR HOLIDAY DUTY.

Section 401. Rate of holiday pay.

Here are given the general rules governing rates of pay for holidays worked and not worked. In (b) and (d) the phrase "because of a holiday" has been used deliberately, rather than "on a holiday". This was done because an employee who would otherwise be required to work on a holiday may, for example, be absent solely because of a call for jury duty subject to the provisions of the Act of June 29, 1940 (54 Stat. 689) (see explanation above of Chapter I, section 402 (d)).

THE PAY SCALES
OF THE CLASSIFICATION ACT OF 1923, AS AMENDED
Effective July 1, 1946

Service & Grade				Basic pay rates						
P	SP	CAF	CPC	Minimum	Intermediate					Maximum
			1	1080.00		1170.00	1258.00	1330.00		1402.00
			2	1690.00	1756.00	1822.00	1888.00	1954.00		2020.00
	1			1690.00	1756.00	1822.00	1888.00	1954.00	2020.00	2093.04
		1		1756.00	1822.00	1888.00	1954.00	2020.00	2093.04	2168.28
			3	1822.00	1888.00	1954.00	2020.00	2093.04		2168.28
	2			1822.00	1888.00	1954.00	2020.00	2093.04	2168.28	2243.52
	3	2		1954.00	2020.00	2093.04	2168.28	2243.52	2318.76	2394.00
			4	2020.00	2093.04	2168.28	2243.52	2318.76	2394.00	2469.24
	4	3		2168.28	2243.52	2318.76	2394.00	2469.24	2544.48	2619.72
			5	2243.52	2318.76	2394.00	2469.24	2544.48	2619.72	2694.96
	5	4		2394.00	2469.24	2544.48	2619.72	2694.96	2770.20	2845.44
			6	2469.24	2544.48	2619.72	2694.96	2770.20	2845.44	2920.68
1	6	5		2644.80	2770.20	2895.60	3021.00	3146.40	3271.80	3397.20
			7	2694.96	2770.20	2845.44	2920.68	3021.00	3146.40	3271.80
			8	2895.60	3021.00	3146.40	3271.80	3397.20	3522.60	3648.00
	7	6		3021.00	3146.40	3271.80	3397.20	3522.60	3648.00	3773.40
			9	3271.80	3397.20	3522.60	3648.00	3773.40	3898.80	4024.20
2	8	7		3397.20	3522.60	3648.00	3773.40	3898.80	4024.20	4149.60
			10	3648.00	3773.40	3898.80	4024.20	4149.60	4275.00	4400.40
		8		3773.40	3898.80	4024.20	4149.60	4275.00	4400.40	4525.80
3		9		4149.60	4275.00	4400.40	4525.80	4651.20	4776.60	4902.00
		10		4525.80	4651.20	4776.60	4902.00	5027.40	5152.80	5278.20
4		11		4902.00		5152.80	5403.60	5654.40		5905.20
5		12		5905.20		6144.60	6384.00	6623.40		6862.80
6		13		7102.20		7341.60	7581.00	7820.40		8059.80
7		14		8179.50		8478.75	8778.00	9077.25		9376.50
8		15		9975.00						10000.00
9		16				See note 3 below				

NOTES:

- The rates for the Clerical-Mechanical Service, as of July 1, 1946, are as follows:
 CM-1, 90 to 97 cents an hour CM-3, \$1.20 to \$1.27 an hour
 CM-2, \$1.04 to \$1.12 an hour CM-4, \$1.35 to \$1.49 an hour
- The rates for part-time charwomen and part-time head charwomen are 90 and 95 cents an hour, respectively.
- P-9 and CAF-16 have no explicit pay rates. They include positions for which Congress, in individual cases, expressly fixes a pay rate in excess of \$10,000 a year.
- For within-grade pay advancement purposes, the fourth rate in CPC-2 and in CPC-3 is considered the middle rate of the pay scale.